

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session
May 30, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 9:20 a.m. on Monday, May 30, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Steven A. Horsford, Chair
Senator Sheila Leslie, Vice Chair
Senator David R. Parks
Senator Moises (Mo) Denis
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Ben Kieckhefer

GUEST LEGISLATORS PRESENT:

Senator Allison Copening, Clark County Senatorial District No. 6
Senator Joseph (Joe) P. Hardy, M.D., Clark County Senatorial District No. 12
Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Rex Goodman, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Marshailah D. Lyons, Principal Research Analyst
Wade Beavers, Committee Secretary

OTHERS PRESENT:

Charles Duarte, Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services
Bobbette Bond, Health Services Coalition

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Marla McDade Williams, B.A., M.P.A., Deputy Administrator, Health Division,
Department of Health and Human Services
Mark Stevens, Vice Chancellor, Finance, Nevada System of Higher Education
Trevor Hayes, Livery Operators Association of Las Vegas
Kimberly Rushton, Livery Operators Association of Las Vegas
Andrew J. MacKay, Chair, Nevada Transportation Authority
Teri Baltisberger, Department of Motor Vehicles Services Manager III,
Department of Motor Vehicles
Brett J. Barratt, Commissioner of Insurance, Division of Insurance, Department
of Business and Industry
Keith Lee, Nevada State Board of Medical Examiners
Donald E. Jayne, Administrator, Division of Industrial Relations, Department of
Business and Industry
Rusty McCallister, Professional Firefighters of Nevada
Michelle Jotz, Las Vegas Police Protective Association
Leslie Johnstone, Executive Director, Health Services Coalition
Jan Gilbert, Progressive Leadership Alliance of Nevada
Susan Fisher, Nevada Anesthesia Patient Safety Political Action Committee
John Madole, Nevada Chapter, Associated General Contractors
James L. Wadhams, Nevada Hospital Association
Lawrence Matheis, Nevada State Medical Association
Bill Welch, Nevada Hospital Association
George Ross, Sunrise Hospital and Medical Center
Kathleen Conaboy, Nevada Orthopedic Society
Danny Thompson, Nevada State AFL-CIO

CHAIR HORSFORD:

I will open the hearing on Senate Bill (S.B.) 274.

[SENATE BILL 274](#): Revises provisions relating to certain special license plates
issued to veterans. (BDR 43-161)

As there is no one present to testify on S.B. 274, we will move on.

I will open the hearing on S.B. 276.

[SENATE BILL 276 \(1st Reprint\)](#): Revises provisions governing safe and
respectful learning environments in public schools. (BDR 34-643)

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SENATOR DAVID R. PARKS (Clark County Senatorial District No. 7):
I will present S.B. 276 for the Committee.

Over the past decade, a number of bills have been brought before the Legislature with the intent of addressing the issue of a safe and respectful learning environment in schools. Those bills included Assembly Bill (A.B.) No. 459 of the 71st Session, A.B. No. 202 of the 73rd Session and S.B. No. 163 of the 75th Session, the "cyber-bullying bill."

Existing law provides for a safe and respectful learning environment in public schools. This includes, without limitation, a prohibition on bullying, cyber-bullying, harassment and intimidation in public schools. Current statutes provide for training of school personnel in this area.

Senate Bill 276 makes various revisions to those provisions. It is modeled after the "Anti-Bullying Bill of Rights Act" which was put into practice by the state of New Jersey at the beginning of this year. Among other provisions, it requires the Department of Education to establish training programs for members of the State Board of Education.

A number of sections have been deleted from S.B. 276. These were all the sections that had fiscal impacts. The remaining language in the bill strengthens existing statute in order to improve the learning environment in Nevada's public schools.

CHAIR HORSFORD:

Do the amendments, as adopted, address the fiscal notes for this bill?

SENATOR PARKS:

That is my understanding. Testimony was provided before the Senate Committee on Education indicating that the intended impact could be accomplished within the existing school district budgets.

SENATOR DENIS:

We discussed this bill in the Senate Committee on Education. I found the proposed amendments to be reasonable. This is a quality piece of legislation, and I support it.

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CHAIR HORSFORD:

Hearing no further comment on this bill, I will accept a motion.

SENATOR LESLIE MOVED TO DO PASS AS AMENDED S.B. 276.

SENATOR DENIS SECONDED THE MOTION.

SENATOR KIECKHEFER:

I will vote yes on this bill. My decision is based on the elimination of the fiscal note for this bill and the fact that the policy has already been thoroughly discussed in the Senate Committee on Education. My vote on the floor will be based on consideration of the policy.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

I will return to S.B. 274. I have questions for representatives of the Budget Division, but no one is present.

The fiscal note for this bill indicates a onetime cost for a programmer totaling \$306,450. Programming of the Department of Motor Vehicles (DMV) database will be required to allow for the issuance of 53 new license plate styles. Starting on July 1, 2014, the implementation date, 2,270 hours of programming will be required at \$135 per hour. The language seems to imply that they will recoup the costs as people purchase the plates. I do not see any challenge in moving this bill.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Staff will require some time to review the bill. We should be able to make a recommendation before the end of the meeting.

CHAIR HORSFORD:

We will continue to hold S.B. 274.

I will open the hearing on S.B. 338.

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SENATE BILL 338 (1st Reprint): Revises provisions relating to reports of certain medical and related facilities. (BDR 40-261)

The Committee has received indication from the sponsor of this bill that the fiscal note has been addressed through the amendment.

MR. KRMPOTIC:

Staff had several questions on this bill. It seems odd that the diagnosis-related group for outpatient hospitals is limited to 50. This number appears to be unlimited for inpatient hospitals. This may be a federal requirement.

There is no identification in the bill of which skilled nursing facilities will need to make the required reports.

Lastly, there are two sections which appear to be identical. Each define "diagnosis-related group." These can be found on page 4, section 2, subsection 3 and on page 6, section 4, subsection 3.

Aside from these issues, Staff has no concerns with the bill. We received information indicating that the fiscal impact has been removed.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

I do not have answers to Mr. Krmpotic's question pertaining to the limitations on diagnosis-related groups for outpatient services.

My comments today are based on a proposed amendment. That proposed language is not necessarily reflected in the first reprint of the bill as it appears here. Senator Shirley Breeden has proposed the elimination of section 1.5; section 1.7; section 2, subsection 2, paragraph (e); and parts of section 4, subsection 1, paragraph (a). As a result of these proposed changes, the fiscal note has been pulled.

CHAIR HORSFORD:

Please explain those changes.

MR. DUARTE:

Those sections pertain to the reporting of potentially preventable readmissions. Staff at the University of Nevada, Las Vegas (UNLV) Center for Health

Information and Analysis has indicated that this stipulation would require programming efforts which have a fiscal impact. Senator Breeden agreed to eliminate those sections in order to completely remove the fiscal impact.

BOBBETTE BOND (Health Services Coalition):

The Health Services Coalition assisted in developing the changes to this bill.

As Mr. Duarte has indicated, the fiscal note arose from the effort to report potentially preventable readmissions in the existing claims database. Because this measure would have triggered a need for additional staff, we agreed to remove that provision.

I would like to address the questions from Fiscal Staff. The first concerned the limitation on the number of diagnosis-related groups for outpatient hospitals. We have moved so far in our ability to perform public reporting that we no longer need to restrict inpatient data to 50 diagnosis-related groups. The outpatient data, however, is still at a stage where we are not certain what would be the best indicator, so the hospitals and the State have agreed to keep that limit in place. This is a way to move forward with the data capacity we have available without completely lifting the limits on outpatient services.

CHAIR HORSFORD:

Seeing no further testifiers on this bill, I will bring the issue back to the Committee for discussion.

SENATOR LESLIE MOVED TO AMEND AND DO PASS S.B. 338, STRIKING SECTION 1.5 AND SECTION 1.7 ON PAGE 3; SECTION 2, SUBSECTION 2, PARAGRAPH (E) ON PAGE 4; AND PARTS OF SECTION 4, SUBSECTION 1, PARAGRAPH (A) ON PAGE 5.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CEGAVSKE:

To whom is the proposed reporting submitted, under this bill?

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MARLA MCDADE WILLIAMS, B.A., M.P.A. (Deputy Administrator, Health Division,
Department of Health and Human Services):
My understanding is that all of the information is reported to a Website.

MR. DUARTE:

The data is required to be reported from hospitals to the UNLV Center for Health Information Analysis. The information is consolidated and used for a number of reports that are required under State law.

SENATOR CEGAVSKE:

On page 3 of the bill, in section 1, subsection 4, paragraph (b), the language reads that the Health Division "shall prepare a report of the information submitted to the system." I take it to mean that the "system" is the UNLV Center for Health Information Analysis.

MR. DUARTE:

That seems to be the case, but I cannot say for certain.

SENATOR CEGAVSKE:

I would like to know more about who is going to be collecting this information.

MS. WILLIAMS:

The "system" refers to the National Healthcare Safety Network. The Network collects infection data for hospitals and ambulatory surgery centers in the State. The Health Division pulls that information together. We have not yet submitted any reports. We received the statutory responsibility for this in 2009. We are currently analyzing that information, and when we have it put together, it will simply be another report among the many that are issued by the Health Division. There is no statutory requirement for it to be reported anywhere, but the intent is to identify infection rates in health facilities in the State.

CHAIR HORSFORD:

Hearing no other questions on S.B. 338, I will open the hearing on S.B. 374.

SENATE BILL 374: Temporarily redirects a portion of the taxes ad valorem levied in Clark County to support the College of Southern Nevada.
(BDR S-992)

This bill is the vehicle for the Nevada System of Higher Education (NSHE) formula study that has been discussed in the Joint Meetings of the Assembly Committee on Ways and Means and the Senate Committee on Finance. This legislation will form the policy for that approach. We will, essentially, be gutting the bill as it is proposed and replacing it with language that would establish the NSHE study.

Staff has provided proposed language for this bill ([Exhibit C](#)). In addition to this, we will need to find additional funding to cover the expenses for the legislative participation in the study. Staff will discuss that amount. The language in [Exhibit C](#) was provided to the Assembly Committee on Ways and Means and the Senate Committee on Finance at the closing for the NSHE budget accounts.

A technical amendment has been provided by a member of the Assembly. Where [Exhibit C](#) makes reference to "community colleges," the member believed that the term should be changed to "State colleges."

I would like Staff to discuss the additional amount that would be needed to cover the expenses of legislative participation in the study.

MR. KRMPOTIC:

Staff examined the figure based on a total of seven meetings in conducting the study. Some of this information was derived from the last time a formula study was performed for NSHE.

The amount would provide for six Legislative members to attend the meetings. Three would be appointed by the Speaker of the Assembly and three would be appointed by the Senate Majority Floor Leader. Three members would be from Las Vegas, two would be from Reno and one would come from the rural counties. It is assumed that the meetings would be held in alternative locations. Three would be in Carson City, three would be in Las Vegas and one would be in Reno.

Based on that information, Fiscal Staff estimates that the cost of the interim study will be \$18,064. This figure includes Legislative salaries, travel and the use of the meeting locations.

CHAIR HORSFORD:

This would be in addition to the amount that has been indicated for the actual cost of the study. This would be the Legislative expense for participation for those members who would be assigned. This should be a not-to-be-exceeded amount based on the determination that will be made by the Legislative Commission on how many meetings will be authorized. This decision will come later from Senator Parks and the Senate Committee on Legislative Operations and Elections.

SENATOR CEGAVSKE:

I want the record to reflect that this bill grants no input to minority leadership.

I was under the impression that NSHE itself was performing a study. Would this proposed study be in addition to that?

CHAIR HORSFORD:

The System has retained a consultant to identify recommendations. Those recommendations will be provided to this Legislative study committee. That committee will then determine which recommendations they will bring forward to the policy.

MARK STEVENS (Vice Chancellor, Finance, Nevada System of Higher Education):

A study has been completed and has been provided to the Assembly Committee on Ways and Means, the Senate Committee on Finance and the Fiscal Analysis Division. It was designed as a beginning for the legislative study.

In the past, the only way the formula has been changed effectively has been through the inclusion of all of the stakeholders. This includes the Legislature, the Executive Branch and NSHE itself. This has occurred a number of times during my career. Each time a Legislative interim study has been authorized, the recommendations from the committee have been adopted, for the most part, by the Executive Branch and the Legislature.

The System has performed a study with the intent that it would provide a starting point for the Legislative interim study. From that point, the various stakeholders would direct how the study would be conducted.

SENATOR CEGAVSKE:

How long did the study take and what was the cost to NSHE?

MR. STEVENS:

The cost was around \$100,000. The study began last summer and concluded several weeks ago.

SENATOR CEGAVSKE:

The budget amendment would appropriate \$150,000 for the purpose of conducting the study. Has that amount been accounted for in the *Executive Budget*?

CHAIR HORSFORD:

That amount is not included in the *Executive Budget*. This is a policy decision that is being considered for the next biennium. It is planned for in our closing budgets as they have been modified.

MR. KRMPOTIC:

The formula study was mentioned throughout the budget hearings for NSHE. The need for the study was brought up in discussions about how the existing formula was not recommended to be used in the upcoming biennium. The Committees departed from the incorporation of enrollment growth into the future fiscal years as well.

I do not recall that an amount was ever discussed to be allocated for the study during the Joint Meetings of the Assembly Committee on Ways and Means and the Senate Committee on Finance. The amount that is included in the amendment is not included in the current *Executive Budget*, nor is the amount that Staff has identified as additional meeting costs for the Legislative members. At this time, the determination as to the amount of funding that will be available is in flux.

SENATOR CEGAVSKE:

Are any of the Governor's appointees to the study committee going to be voting members?

CHAIR HORSFORD:

The Governor will appoint four nonvoting and three voting members to the committee. The nonvoting members would include the Budget Director and three individuals employed by NSHE.

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In section 1, subsection 2, paragraph (a) of [Exhibit C](#), I would support a change whereby two members of the committee would be appointed by the Senate Majority Floor Leader and one would be appointed by the Senate Minority Floor Leader. In section 1, subsection 2, paragraph (b), I would support a change whereby two members would be appointed by the Speaker of the Assembly and one would be appointed by the Minority Floor Leader of the Assembly.

That change, in addition to the adjustment to the terminology in section 2, will be made, resulting in the addition of \$18,064 in section 16 to cover Legislative expenses.

SENATOR CEGAVSKE:

Will the amount of money included in this bill be determined at a later time by the Committee on Legislative Operations and Elections?

CHAIR HORSFORD:

That is correct.

This is one of the two primary studies that we expect to perform this Session. Those decisions will be made in the closing of the overall budget.

SENATOR LESLIE MOVED TO AMEND AND DO PASS S.B. 374 WITH AMENDMENT 6729 AND TECHNICAL ADJUSTMENTS.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

I will open the hearing on A.B. 489.

ASSEMBLY BILL 489: Revises provisions governing compensation for travel expenses for certain persons employed at certain correctional institutions or facilities within this State. (BDR 16-1206)

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MR. KRMPOTIC:

Assembly Bill 489 would eliminate Rural Area Differential Pay for certain employees in the Department of Corrections and the Division of Forestry. This is applicable to individuals who begin employment on or after July 1, 2011.

Rural Area Differential Pay is given to employees who travel from Las Vegas to Southern Nevada Correctional Center, Southern Desert Correctional Center, Indian Springs Conservation Camp, Three Lakes Conservation Camp and Jean Conservation Camp. This bill is consistent with the actions that have been taken by the Committee with respect to the closing of the budgets for both the Division of Forestry and the Department of Corrections.

SENATOR RHOADS MOVED TO DO PASS A.B. 489.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

I will open the hearing on A.B. 528.

ASSEMBLY BILL 528 (1st Reprint): Authorizes the transfer of money received to carry out provisions relating to the medical use of marijuana for certain purposes. (BDR 40-1182)

MR. KRMPOTIC:

Assembly Bill 528 allows for the transfer of Marijuana Registry money to the Division of Mental Health and Developmental Services. The amount of the transfer was recommended to be approximately \$700,000. This is enabling legislation to implement a budget decision that has been approved by the Assembly Committee on Ways and Means and the Senate Committee on Finance.

MS. WILLIAMS:

That is correct.

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SENATOR KIECKHEFER:

Has this item been evaluated in light of the 2011 Nevada Supreme Court's decision in *Clean Water Coalition vs. The M Resort, LLC*?

MR. KRMPOTIC:

It has not.

SENATOR KIECKHEFER:

This is money that we have collected for a specific purpose and now we are using it for another purpose.

CHAIR HORSFORD:

From my conversations with the Legal Division of the Legislative Counsel Bureau (LCB), I have been led to understand that the limitation will only be on the redirection of local government revenue. The ruling would not preclude us from transferring amounts within State accounts.

SENATOR KIECKHEFER:

I was under the impression that the ruling addressed both special laws and local laws. The local laws would pertain to a specific jurisdictional area and the special laws would pertain to a specific type of person. In this case, that could apply to the type of person who might enroll in the Marijuana Registry only to have the money redirected to another purpose.

CHAIR HORSFORD:

I do not find that to be the case. The Legal Division is reviewing measures as we consider them to identify anything that could be problematic based on that ruling.

SENATOR LESLIE:

In the Joint Subcommittee on Human Services and Capital Improvements hearing on this issue, there was concern that the budgeted amount was too much. There was doubt that the Registry would reach the \$700,000 mark. It seems, however, that they will reach that amount. This is excess money. There is no use in letting it go to waste.

SENATOR LESLIE MOVED TO DO PASS A.B. 528.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:
I will open the hearing on A.B. 530.

ASSEMBLY BILL 530: Revises provisions relating to stale claims by state agencies. (BDR 31-1178)

MR. KRMPOTIC:
Assembly Bill 530 revises the stale claims process for the State. It allows State agencies to pay from the appropriate budget account in the current fiscal year for an obligation which is less than \$100 or is for medical expenses pursuant to a claim by a third-party administrator.

Currently, the process for stale claims calls for agencies to submit requests to the Budget Division. This is subsequently paid from the Stale Claims Account.

In section 2, subsection 6, paragraph (a), sub-subsection 2, the language refers to medical expenses pursuant to a claim from a third-party administrator. This implements a budget decision whereby the Committee approved General Fund appropriations of about \$1 million in each year in the Prison Medical Care account providing for stale claims in the current fiscal year for prior-year expenditures. Staff would urge passage of this bill in order to implement the budgetary decision that was made in the Prison Medical Care account.

SENATOR LESLIE MOVED TO DO PASS A.B. 530.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:
I will open the hearing on S.B. 320.

SENATE BILL 320: Revises provisions governing certain motor carriers.
(BDR 58-1051)

This bill is going to be gutted and used as a vehicle for another issue.

TREVOR HAYES (Livery Operators Association of Las Vegas):

A previous effort by the Livery Operators Association of Las Vegas to introduce a licensure bill halted after the discovery of an unforeseen fiscal impact. We believe that we have found a way to address the underlying problem through a pared-down response which would have no fiscal impact. The proposed amendment to S.B.320 ([Exhibit D](#)) has been provided.

KIMBERLY RUSHTON (Livery Operators Association of Las Vegas):

As noted by Mr. Hayes, S.B. 320 has been changed substantially in order to address the potential of a fiscal impact on the State.

Section 2 of the bill as it is proposed in [Exhibit D](#) contains amendments to three provisions contained within chapter 706 of the *Nevada Revised Statutes* (NRS). These changes are necessary in cleaning up terminology which is specific to transportation.

The first proposed amendment would affect NRS 706.041. This section provides the definition for a common motor carrier of passengers. The proposal is to expand the language to include short-term lessors who arrange for or provide chauffeur service for passengers seeking to rent vehicles on a short-term basis.

An amendment is proposed for NRS 706.386. By this amendment, short-term lessors who arrange, offer or provide chauffeur service would now be required to obtain a certificate of public convenience and necessity in order to operate.

The third proposed change would affect NRS 706.748. This section provides the definition for "short-term lessors" as the term is contained throughout NRS 706. This change would, in essence, give the Nevada Transportation Authority (NTA) the authority to impose an impound fine on short-term lessors.

Sections 3 and 4 in the amended version of the bill are to be read in conjunction with one another. They provide authority to NTA and DMV to suspend an individual's driving privileges should that person fail to pay a fine assessed for

an administrative violation. Individuals are sometimes cited for violations of provisions in NRS or the *Nevada Administrative Code*. Upon failure to pay the citation, NTA may notify the individual that notice of this failure will be transferred to DMV. The offender will have a period of 30 days to remedy the situation. Upon expiration of the 30 days, DMV has authority to suspend the individual's driving privileges until the fine is paid in full.

Section 5 in [Exhibit D](#) has been proposed on behalf of Whittlesea Checker Taxi in Reno. This part of the bill clarifies and creates language pertaining to the maximum period of service for which a taxicab may be used in jurisdictions outside of Clark County. The language is patterned after NRS 706.8834 which is applicable to taxis under the jurisdiction of the Taxicab Authority. Specifically, the bill proposes to increase the length of service for which taxis may operate in rural counties and northern Nevada. The basis for this section is that taxicabs in less populated areas average fewer miles per month than their counterparts in Clark County. We are seeking to increase the number of months that these vehicles are allowed to be operated as taxis.

I am here today with representatives from NTA and Whittlesea Checker Taxi.

SENATOR KIECKHEFER:

Please explain the problem and how this bill will solve it.

MS. RUSHTON:

The bill attempts to address several problems. Section 2 of the amendment applies specifically to one problem. Rental companies who offer or arrange for chauffeurs to provide transportation services to passengers are providing the same services as taxi or limousine drivers in Las Vegas. These drivers working for the rental companies, however, are not subject to preemployment drug testing. They are not subject to any type of specialty training relative to operating the vehicles, and yet they compete to provide the same service as the certificated carriers. We are seeking to close that loophole.

Sections 3 and 4 would provide a mechanism for the State to collect outstanding administrative fines owed as a result of administrative citations. Currently, if an individual fails to pay their administrative citation fine, the matter is sent to collections. The State must pay for the collections service. We are proposing a common practice which is used by other State agencies in

which individuals who fail to pay the fines are subject to the revocation of their driver's licenses.

Section 5, as previously noted, allows vehicles to operate as taxicabs for longer periods of time in rural Nevada and Reno.

SENATOR KIECKHEFER:

What are some of the administrative infractions for which these fines might be issued?

Ms. RUSHTON:

These fines are primarily issued to drivers who have committed citation violations. These might include illegal operation or solicitation. The fine is commonly in the amount of \$100 to \$250. The legislation targets drivers who have been cited for violations and have failed to appear for a hearing. In most instances, due process and notice has already been afforded to these individuals.

SENATOR KIECKHEFER:

So this would apply to anyone who operates a taxicab, a limousine or any other vehicle for hire?

Ms. RUSHTON:

That is correct.

ANDREW J. MACKAY (Chair, Nevada Transportation Authority):

When a fine goes unpaid, the individual receives a notice three times. After that, the issue is passed on to the State Controller's Office which hires a collection agency to retrieve the fine.

The relevant section of the bill as proposed in [Exhibit D](#) should help alleviate this problem for NTA. The Authority's primary goal is to protect the travelling and shipping public. Quite often, the same illegal operators are cited, found guilty and do not pay the fine. The offenders know that, ultimately, the only repercussion they face is a negative impact on their credit resulting from the actions of a collection agency. For the individuals who have no credit to begin with, this is not much of a penalty.

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The ability to have licenses revoked will have a definite impact on this problem. The NTA will finally be able to put chronic illegal operators out of business.

SENATOR KIECKHEFER:

Is the main problem with unlicensed operators or is it with licensed operators who are functioning outside the rules?

MR. MACKAY:

We have problems with both. I would not pin the problem primarily on the legal operators. Quite often the offenders are the employees of the legal operators. Once the certificated carriers discover that an employee has not paid the applicable administrative penalty, that individual is typically terminated. We rarely have problems with the licensed carriers themselves.

In the past five years, approximately \$1.08 million in administrative fines over \$100 have gone unpaid. This issue represents a significant amount of money for the State.

TERI BALTISBERGER (DMV Services Manager III, Department of Motor Vehicles):

The DMV is neutral on this bill. We already have driver's license suspension processes in place and could easily implement this new requirement. There would be no fiscal impact on DMV from this legislation.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS S.B. 320.

SENATOR LESLIE SECONDED THE MOTION.

SENATOR CEGAVSKE:

I need to disclose that I have a son who is a teacher who drives a limousine on his days off and would be subject to the impacts of this legislation.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

I will open the hearing on S.B. 278.

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SENATE BILL 278 (1st Reprint): Revises provisions relating to health care and health insurance. (BDR 57-253)

As this is my bill, I will defer control of the meeting to Vice Chair Leslie.

MR. DUARTE:

I would like to present proposed Amendment 6250 to S.B. 278. This would eliminate the fiscal note which had been submitted by the Division of Health Care Financing and Policy (DHCFP). The value of the fiscal impact had initially been assessed at \$108 million over the 2011-2013 biennium. Those costs were associated with rate revisions that had previously been required by the bill. Amendment 6250 has completely eliminated the requirement for that fiscal note.

I would like to offer amended language ([Exhibit E](#)) for Amendment 6250. We are proposing a change to section 14.5 of the amended version of the bill. This section pertains to notification of dentists. There is a requirement for 45 days' notice and for negotiation with individual dentists. The DHCFP budget closed with a reduction in dental rates for Medicaid and the Nevada Check Up program. This provision would delay the implementation of that budget proposal.

I would suggest that the language in [Exhibit E](#) be adopted. We have added subsection 3 which indicates that the new legislation would not apply to a dental care organization which provides services to recipients of Medicaid or insurance from the Children's Health Insurance Program pursuant to a contract with DHCFP. This subsection would not exempt any dental care organization from any provisions of the relevant chapter for services provided pursuant to any other contracts.

SENATOR CEGAVSKE:

This is Senator Joseph Hardy's bill. I want to be assured that he has been consulted on this amendment.

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):
I have only recently seen this amendment, but I support it.

SENATOR KIECKHEFER:

Were there any other fiscal notes associated with this bill and have those also been addressed?

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BRETT J. BARRATT (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):
The Division of Insurance had previously submitted a fiscal note on this bill. However, as it is amended, the fiscal note is eliminated.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 278.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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VICE CHAIR LESLIE:
I will relinquish the position of chair back to Senator Horsford.

CHAIR HORSFORD:
I will open the hearing on S.B. 168.

SENATE BILL 168 (1st Reprint): Makes various changes concerning public health. (BDR 54-837)

KEITH LEE (State Board of Medical Examiners):
This bill is the result of one-half years' worth of work on the part of the State Board of Medical Examiners. We have tried to make it easier and more efficient for the Board to proceed with disciplinary actions. We also wanted to enforce the more timely provision of information on sentinel events to the State Division of Health.

CHAIR HORSFORD:
Has this bill been heard in another committee?

MR. LEE:
The policy issues were discussed in the Senate Committee on Commerce and Labor.

CHAIR HORSFORD:
Please discuss any fiscal notes attached to this bill or any material changes that you might be requesting today.

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MR. LEE:

We are requesting no material changes at this time. We have amended this bill during hearings before the Senate Committee on Commerce and Labor in order to eliminate any fiscal note that might have existed.

CHAIR HORSFORD:

Six agencies had submitted fiscal notes on this bill. I would like to hear testimony from representatives of those agencies.

MS. WILLIAMS:

The Health Division has withdrawn its fiscal note. We were removed from the portions of the bill relating to sentinel events, and thus we anticipate no fiscal impact.

CHAIR HORSFORD:

I am most concerned with the fiscal note that was submitted by the Investigation Division of the Department of Public Safety.

MR. LEE:

I would not presume to speak for the Investigation Division, but I believe that we have satisfied them enough that they have removed their fiscal note. When we deleted section 11 through section 17 of the bill, we affected the language which had originally prompted the fiscal note.

CHAIR HORSFORD:

Please discuss this issue with the affected agencies and have them send an e-mail to our Staff confirming the withdrawal of all fiscal notes.

SENATOR LESLIE MOVED TO DO PASS S.B. 168 AS AMENDED.

SENATOR LESLIE:

I would like my motion to be contingent upon the receipt of the confirmation from the agencies concerning the withdrawal of the fiscal notes.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:
I will open the hearing on S.B. 164.

SENATE BILL 164 (1st Reprint): Revises provisions relating to senior claims examiners for third-party administrators. (BDR 57-232)

We will take a brief recess at 10:23 a.m.

We will reconvene at 10:28 a.m.

This bill has been proposed by Senator Michael A. Schneider. I would like confirmation through him from the Division of Industrial Relations (DIR) and the Insurance Division that there is no fiscal impact from this legislation.

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):
Section 16.5 of this bill is the most critical portion in handling third-party administrators. This bill relates to catastrophic injuries and helping to cover injured workers. In our investigation of the industry, we believe that licenses should be required of individuals who deal with health care. If someone mishandles the case of an injured worker and directs them to improper health care, the worker can be damaged for life.

We license doctors in this State. We also license nurses. We even license people who cut hair. It is important to make sure that the people who handle our injured workers are licensed as well so that action can be taken against them if necessary.

CHAIR HORSFORD:
If there is a fiscal note, I would like someone to testify on its impact.

MR. BARRATT:
At this time, the Division of Insurance does not have a fiscal note for S.B. 164.

As the bill is written, some license fees are involved which would go to the Division of Insurance. Based on the number of expected licensees, the fees should satisfy the needs of the agency in balancing out the costs and eliminating the need for a fiscal note.

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DONALD E. JAYNE (Administrator, Division of Industrial Relations, Department of Business and Industry):

The majority of the language in the first reprint of this bill, from a licensing standpoint, mostly involves the Division of Insurance. The DIR is to provide a supporting role in getting some definitions in the regulatory process. Section 16.5 of the bill is a new section outlining auditing criteria and responsibility. This, for the first time, gives us the ability to audit a third-party administrator as a stand-alone entity with our more comprehensive audits.

In the past, we have performed audits on third-party administrators, but only as a result of interacting with the insurance entities they represent. Section 16.5 is a welcome addition to the tools we have available in our audit processes.

I do not believe that the DIR has ever submitted a fiscal note for this bill.

SENATOR LESLIE MOVED TO DO PASS S.B. 164, AS AMENDED.

SENATOR DENIS SECONDED THE MOTION.

SENATOR KIECKHEFER:

I am assured that the policy in this bill has been thoroughly discussed in the Senate Committee on Commerce and Labor. I will vote in favor of this bill in this Committee because of the lack of a fiscal note, but my vote on the floor will be on the policy aspect.

THE MOTION CARRIED. (SENATOR CEGAVSKE VOTED NO.)

CHAIR HORSFORD:

The sponsor of S.B. 274 has indicated that it has been addressed in another manner. We will not be considering S.B. 274.

I will open the hearing on S.B. 115.

SENATE BILL 115: Establishes provisions governing payment for the provision of certain services and care to patients and reports relating to those services and care. (BDR 40-192)

This bill was referred to us by the Senate Committee on Health and Human Services. We have received policy-related amendments. I want to allow the Chair of the Senate Committee on Health and Human Services to review those before we take input on them. Based on the time line of the Session, it is not appropriate to refer this bill back to the policy committee at this time.

SENATOR ALLISON COPENING (Clark County Senatorial District No. 6):

I will be speaking today as the Chair of the Senate Committee on Health and Human Services. We have been working on this bill for a number of years. The aim is to come to terms with a difficult issue in the billing procedures for the medical industry.

Three documents have been provided to Staff. The first provides an overview of the proposed amendment ([Exhibit F](#)). The second is a mock-up of Amendment 7187 itself ([Exhibit G](#)). The third document contains a set of tables summarizing the proposed changes as they have been submitted by the various interested parties ([Exhibit H](#)).

Stakeholders began coming together several years ago in an attempt to address this issue. The problem can be put simply. If a person must seek emergency care and they go to an out-of-network hospital, or an out-of-network physician at an in-network hospital, and that person's insurance does not cover the care, they will end up with a sizable bill. This is called "balance billing."

In a number of circumstances, our constituents have had to file medical bankruptcy because of an inability to pay for these bills. We have sought a way to prevent people from having to file medical bankruptcy because they were forced to seek emergency care. People should not have to find themselves in a financial predicament over medical bills.

The Division of Insurance, DHCFC, the Health Services Coalition, the Nevada Hospital Association, the Nevada State Medical Association, the Nevada Chapter of the American College of Emergency Room Physicians, the Nevada Orthopedic Society and the Nevada Anesthesia Patient Safety PAC were all contacted by my office in piecing together the necessary parts of this legislation. The components of the bill were discussed with these partners over the course of several meetings. Each of the stakeholders submitted their own amendments. With Staff, I have gone through these amendments and tried to work out what would be a fair compromise.

Some people will be opposed to this bill. This is not an easy problem to solve. We could not give everyone what they wanted and there were conflicting needs from the stakeholders.

MARSHEILAH D. LYONS (Principal Research Analyst, Research Division, Legislative Counsel Bureau):

As a Staff member of LCB, I may not advocate for or oppose any legislation that comes before this body. At the request of Senator Copening, I will be walking the Committee through Amendment 7187 to S.B. 115. I will try to cover the most important parts of the amendment as it is written in [Exhibit G](#).

Section 1 of the bill, as amended, changes the duties of agencies so that the Administrator of the Health Division will determine the adequacy of networks. The responsibility for determining the adequacy of networks for health maintenance organizations (HMOs) has previously belonged to the Commissioner of Insurance. This change was requested by the Commissioner's office.

This section also requires that a copy of the report produced from the adequacy study be given to the Senate Committee on Health and Human Services and the Commissioner of Insurance.

The definition of "medical screening" is added in section 8.5. This clarification was requested by each of the stakeholders.

Section 11 specifies the insurers or third-party payers who are eligible to receive the discounted rate that is offered in this bill. It limits the application of the bill to nonprofit entities.

Section 12 is a clarification on what it means to "stabilize." Some of these definitions are important in determining which services are being provided.

In section 12.5, beginning on line 16, Medicaid and the State Children's Health Insurance Program are exempted.

On line 22 of that page in [Exhibit G](#), the section is also marked "12.5." This will be corrected. That particular section is a clarification of the term "traumatic injury." This is an important distinction in the payment which is provided. The

payment is 115 percent of the fee schedule, as offered in the bill, for nontrauma services and 120 percent for trauma services.

Section 13 adds medical screening to the services that would be eligible for this discounted payment.

I will now discuss a section that begins on page 4, line 29 of [Exhibit G](#). These sections are mimicked, beginning in section 14, for the physicians. In both instances, for traumatic injury, the care and services are reimbursed, based on the DIR's fee schedule, at 115 percent. For traumatic injury services, they are reimbursed at 120 percent. That figure is for both anesthesiologists and for any other physician who might provide services for a traumatic injury.

SENATOR KIECKHEFER:

When the rates are set by the Department of Business and Industry, are they workers' compensation rates?

MS. LYONS:

They are workers' compensation rates, yes.

SENATOR KIECKHEFER:

How are those rates set?

MS. LYONS:

Senator Copening may wish to address that issue. She has met with the Director of the Department of Business and industry.

SENATOR COPENING:

This is one of the most important components of the issue. We needed to find a way in which we could determine what would be a fair rate. There is no set language to draw from except for the work that DIR has put into establishing its own rates. They perform studies on this issue every ten years. They are due for a new study in about one year.

In learning about the rate schedule, we discovered that DIR has a ceiling with which they must comply. In most workers' compensation cases, they begin at that ceiling and then negotiate downward. In general, the payment ends up being at a lower schedule than the ceiling allows.

This bill proposes to make the ceiling the starting point and negotiations will not be allowed to dip below the ceiling level. We will increase that number by 15 percent and 20 percent, depending on the type of case. In any case, the compensated party will receive a significant amount more than they would have before.

SENATOR KIECKHEFER:
How do they set the ceiling?

SENATOR COPENING:
I would like to have a representative of the Division discuss that information.

MR. JAYNE:
The fee schedule for workers' compensation operates on its own. It is independent of S.B. 115. The schedule was compiled sometime in the early 1980s. Through the years, we have evaluated it on an annualized basis. In 2002, we were asked to perform a study regarding the adequacy of all of the components of the medical fee schedule. We then benchmarked the rates to the consumer price index for medical inflation. Every year, we examine the medical inflation index from the U.S. Department of Labor and apply that to the fee schedule to adjust the rates.

We have agreed to repeat this study every ten or twelve years. Sometime in the next two to four years, we will be requesting funding authority to hire an independent third-party contractor to reevaluate the medical fees schedule and all of its components.

With this particular bill, we will continue to operate as if we are wearing blinders. We will continue to operate the fee schedule as we always have. We will adjust it accordingly in response to the outcomes of the upcoming study. My understanding is that our workers' compensation schedule will be used as a benchmark for others.

Senator Copening brought up the subject of managed care. We have a medical fee schedule. In general, medical insurers will come together and negotiate against that fee schedule, most commonly downward. From that point, the fee schedule ends up operating as a ceiling.

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SENATOR KIECKHEFER:

What are your payment rates in comparison to Medicare or Medicaid?

MR. JAYNE:

When we performed the study in 2002 and implemented it in 2004, we were establishing it at approximately 10 percent above Medicare rates. We apply the medical consumer price index to that number in each subsequent year.

SENATOR KIECKHEFER:

How close does Medicare come to covering actual costs of service?

MR. JAYNE:

I do not know. We have established this schedule and we allow the market to adjust it.

SENATOR KIECKHEFER:

When Medicare rates are reduced by any amount, as has been proposed, do we readjust our rates in relation to that, or do we continue to adjust upward only accounting for inflation?

MR. JAYNE:

As it functions now, we would continue taking into account only the medical consumer price index and adjusting it upward. The adjustments to Medicare would not be addressed until the recommendations of another major study can be addressed. If the study indicates that the rates for workers' compensation should be adjusted up or down, this would affect the entities who follow those rates as a benchmark.

SENATOR LESLIE:

Have doctors and hospitals provided input in the development of this bill?

MR. JAYNE:

When we go through the evaluation process, we contract with a third-party administrator. The study is only performed every ten years. The study in 2002 was the first of its kind. At that point in time, we had stakeholder groups meet with DIR to discuss the rates before the final decision was made. I would anticipate a similar process occurring in upcoming studies.

MS. LYONS:

In section 13, subsection 3, paragraph (d), as found on page 5 of [Exhibit G](#), there is language requiring patients to arrange to pay bills within 30 days of receipt of an explanation. Section 13, subsection 3, paragraph (e) requires insurers to pay within 30 days after receipt of the bill.

In subsection 4, the bill provides dispute mediation by the designee of the Office of Consumer Health Assistance. In each instance, the provider and the insurer each pay 50 percent of the cost of the mediation.

I will now discuss subsection 5 of section 13. Once an out-of-network hospital notifies the third-party that they are providing care to a patient who is not covered, they have 12 hours to transfer that patient to an in-network hospital, provided stabilization has taken place.

Beginning in section 14 there is mimicked language from previous sections, but applying to physicians.

I will direct the Committee's attention to page 8 of [Exhibit G](#). Section 15 removes provisions for nonemergency care at a hospital. Those provisions were included in the original bill. The deletion was requested by the physicians and was agreed to by the Culinary Health Fund.

Section 16 of the amendment pertains to reports that are required of the third party. These reports require them to compile lists of in-network hospitals and in-network physicians and to review the information concerning those in-network hospitals and in-network physicians in determining whether the persons covered under their plan have adequate access. The section also requires them to review the location of in-network hospitals and in-network physicians in relation to the area in which the covered person lives and works. This was added at the request of the hospitals.

On page 11 of [Exhibit G](#), subsection 2 of section 16 specifies that no other discounts are allowed once the original discount is provided. Subsection 3 of section 16 limits the ability of out-of-network hospitals or out-of-network physicians to collect from patients amounts other than deductible, copay or coinsurance rates which would otherwise apply.

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Section 17 has been removed in the amendment because the Office of Consumer Health will now be the entity ordering mediation.

SENATOR KIECKHEFER:

I have a question on section 16, subsection 3. We processed a bill yesterday which pertained to the ability of hospitals to seek payments from civil actions. Will this section of S.B. 115 prohibit that?

MS. LYONS:

I would need to clarify that point with the Legal Division. I do not believe that it will conflict.

CHAIR HORSFORD:

Potential conflicts are reconciled during the drafting process within the Legal Division. If there are two measures moving at the same time which could potentially conflict, that issue would have to be brought forward. If this turns out to be the case, we will have to return and reconcile one or the other.

MS. LYONS:

I will now discuss page 12 of [Exhibit G](#). In section 17, subsection 10, the Director of the Office of Consumer Health is charged with establishing a procedure for making complaints and addressing issues regarding payments. If the party being paid is not satisfied with the payment, they may file a complaint with the Office of Consumer Health Assistance.

Section 18 is deleted because adequacy will be determined by the Administrator of the Health Division instead of the Commissioner of Insurance. The provisions and regulations which would have been required in section 19 and section 20 have also been deleted.

Senator Copening has asked me to point out that, in the bill, hospitals with fewer than 100 beds will be exempted. Public hospitals will also be exempt from the provision.

SENATOR KIECKHEFER:

Why will public hospitals be exempt?

SENATOR COPENING:

I do not recall. I would have to consult with the Legal Division.

SENATOR KIECKHEFER:

If the University Medical Center (UMC) is the major public hospital in the State, and it is currently losing money, and this measure will reduce the amount that they are able to be reimbursed, this seems like a step backward. We will be heading in the opposite direction in terms of making UMC fiscally stable.

CHAIR HORSFORD:

The UMC is not the only public hospital in the State.

SENATOR COPENING:

I am finished presenting the bill. I will be happy to work with the Committee in making any potentially necessary amendments. I believe, however, that we have arrived at some important compromises in the bill as it is currently proposed.

CHAIR HORSFORD:

I will now take public testimony on this bill.

Ms. BOND:

I will speak today as a representative of the Health Services Coalition. We are in favor of this bill.

I would like to provide clarification for Senator Kieckhefer's question on the exemption of public hospitals. When discussion on this measure began during the 2009 Session, UMC and all other public hospitals were to be exempted. This included seven or eight hospitals in the State. Every dollar that these hospitals made would go back to the community and to relief from the taxpayer burden. We believed that we should not enact a measure which might do anything to reduce taxpayer remedies. Hospitals with fewer than 100 beds were also exempted because most of the rural areas have similar issues with their community resources.

I would also like to address some other points of the bill. The overview provided in [Exhibit F](#) does a satisfactory job of explaining the solutions this legislation will provide. Senator Copening has touched on several issues which are supported by the Coalition.

We feel that, through amendment, the bill has been dramatically reduced in scope. The bill will now only affect patients who are transported by ambulance.

If a person walks in and needs an appendectomy, they will be charged in the same way they have been.

There is a requirement that every insurance plan using this legislation must have more than one hospital contract in the State. This will ensure that tourists do not benefit disproportionately from this legislation. The bill should protect Nevadans most.

The scope has also been greatly restricted through the exemption of emergency room doctors. Anything that the emergency room doctors do will still be subject to billed charges. We accept this provision. We also responded to the needs of anesthesiologists by supporting the idea of the DIR schedule. The anesthesiologists were in support of that provision. We believe that the DIR schedule is fair. We are appreciative of the periodic cost-of-living increases which are built into it. It is also helpful in that it is written in code and can be easily referenced.

RUSTY MCCALLISTER (Professional Firefighters of Nevada):

Today I am representing the Professional Firefighters of Nevada. We are in support of this legislation. This bill impacts us in that it involves emergency transports which are something we deal with on a daily basis.

Most patients in emergency rooms take themselves there. Some, however, are transported by ambulance. We transport them based on protocols which are established by the health districts and by the State. Many times, patients are taken to hospitals through no choice of their own. This bill would help those people.

MICHELLE JOTZ (Las Vegas Police Protective Association):

I am speaking as a representative of the Las Vegas Police Protective Association. Our health trust represents 11,500 insured clients. We believe that this bill is beneficial because it limits the reimbursement for emergent care when the patient is unable to choose their provider. We know that this bill has been discussed extensively and we appreciate Senator Copening's amendment.

LESLIE JOHNSTONE (Executive Director, Health Services Coalition):

I am speaking today as the Executive Director for the Health Services Coalition.

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We are in support of this bill, as it has been amended. I would like to extend the support of Caesar's Entertainment. Their representative is unable to attend the hearing today, but has asked me to vocalize their support for the amendment.

JAN GILBERT (Progressive Leadership Alliance of Nevada):

Today I am representing the Progressive Leadership Alliance of Nevada. We are in support of the amended version of S.B. 115.

We are very concerned for people who do not have insurance. This problem, however, affects more than just the uninsured. Even people who have insurance are unable to afford these costs, and this will result in costs spilling over to other people.

Ms. BOND:

I have just received confirmation from a representative of MGM Resorts International. They cannot be present at today's hearing, but asked me to vocalize their support for S.B. 115.

SUSAN FISHER (Nevada Anesthesia Public Safety Political Action Committee):

I am speaking today as a representative of the Nevada Anesthesia Public Safety Political Action Committee. We are neutral on this bill.

We appreciate the inclusion of our suggestions for this bill involving the association of rates for anesthesiology care with the rates established by DIR.

We have a suggestion for page 8 of [Exhibit G](#). In section 14, subsection 4, line 14 the language refers to the cost of mediation. The bill states that it must be paid in equal amounts by the hospital and the third-party. The decision of the mediator is supposed to be binding. The Committee may be interested in changing the term "hospital" to "out-of-network physician" in this section. I do not know if this was an oversight or if it was intended to read this way.

CHAIR HORSFORD:

Would you want to change the term to "physician" or "provider?" We will double-check this issue with the Legal Division.

Ms. WILLIAMS:

The Health Division is neutral on the policy provisions of the bill. I need to testify on the possibility of a fiscal impact.

We were not initially included in the bill when it was introduced. As it has gone through these different iterations without our input, we are not yet at a point where we can calculate costs. I believe that we would need at least one additional position to accommodate this measure. Although we currently have the HMO network adequacy review, we gave up that funding during prior budget cuts. We perform only a small piece of this function now.

CHAIR HORSFORD:
Would that work be on the adequacy of network provision?

MS. WILLIAMS:
That is correct.

CHAIR HORSFORD:
This service has been requested by the hospital and provider community in S.B. 115. There is some concern about the adequacy of the networks run by some of these insurance carriers.

JOHN MADOLE (Nevada Chapter, Associated General Contractors):
I am representing the Nevada Chapter of the Associated General Contractors.

We have seen several situations in which traumatic injuries occurred and constituents experienced difficulty in paying the bills they received from trauma care at out-of-network hospitals.

I did not see this bill until last night. It seems to be too comprehensive and complicated of a change to be coming to the table this late in the Session. We hope to examine this bill further.

CHAIR HORSFORD:
The provision in question was discussed in the Senate Committee on Health and Human Services prior to today.

JAMES L. WADHAMS (Nevada Hospital Association):
Today I am representing the Nevada Hospital Association.

We have been involved in the process of drafting this bill for quite a while. Proposed Amendment 7187, however, is a dramatic change. Certain issues can arise in the search for large-scale compromises.

I want to emphasize a point contained in the first paragraph in [Exhibit F](#). The overview states that the legislation should be a critical piece in keeping premiums and rates affordable for employer-sponsored plans. While the focus of this bill is on the cost of premiums, it unfortunately does not address the costs of hospitals or other providers.

As Senator Horsford and Senator Leslie have repeatedly stated this Session, if the hospitals do not get their costs covered, we end up seeing diminution in services. The Medicaid cuts, both past and present, have resulted in reduction in services, most notably in obstetrics services. A preliminary estimate by the hospitals has indicated that the financial impact of the revenue reduction of this bill could be worse than an additional 5 percent cut to Medicaid. Because of the complexity of this bill, the impact has not yet been fully calculated, but it will be pursued with more time.

The fundamental problem for the State is that less money in health care means less health care service.

There are also several technical issues in the amendment which should be reviewed by the Legal Division. There is a requirement in section 16 pertaining to the adequacy of the networks. This section was located in the original bill, but some modifications have been made. Those certifications required in section 16 will require a fairly extensive survey. They provide at least five discreet basics for disputing the imputed DIR fee-schedule rate.

The ultimate issue, for us, is identified in section 17 on page 12 of [Exhibit G](#). There will be a significant number of disputes. As the Office of Consumer Health Services has an opportunity to review this section, they will see that the dispute process will be fairly time-consuming.

The public agency dispute resolution is funded by fees assessed on provider and nonprofit entities. This may trigger a revenue-raising two-thirds vote requirement. It may raise some constitutional problems with fees on nonprofits.

The mediation appears, on line 34 and line 35 on page 5 of [Exhibit G](#), to be binding. This is a mediation of a dispute between two private parties. This could also raise constitutional issues concerning the exercise of judicial powers by the Executive Branch. To the extent that those powers are appropriate, that decision of the mediator should be subject to judicial review.

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LAWRENCE MATHEIS (Nevada State Medical Association):
Today I am representing the Nevada State Medical Association.

The work of Senator Copening has greatly improved the clarity and workability of the legislation. The amendment presents the clearest statement so far of the problem.

We oppose the principal that the need is great enough to necessitate a statutory imposition into contracts between two private parties.

Several areas of the amended bill require additional clarification. On page 3 of [Exhibit G](#), the text indicates that only covered patients of nonprofit insurers would be involved in this process. It is my understanding that there are only a few commercial insurers in the nonprofit category in the State. One is the St. Mary's Regional Medical Center health plan and another is the Hometown Health plan. I would assume that this provision covers most of the participants in the Health Services Coalition, but I do not know who would be covered beyond that. It would be useful to clarify which nonprofit entities would qualify under this legislation.

On page 7 of [Exhibit G](#), I would like to point out an editing issue in the section pertaining to the 115 percent rate of the current fee schedule for emergency cases. The language refers to the provision of services by a physician. In the second part, pertaining to the 120 percent rate for trauma services, the provision applies to anesthesiologists. I believe that the language in each part should read the same, as anesthesiologists are included regardless.

BILL WELCH (Nevada Hospital Association):
I am representing the Nevada Hospital Association. We are in opposition to this legislation.

We are concerned that the bill does not go far enough to clarify who would be affected by this bill. We believe that this should apply to those plans that are contracted at the time of the passage of the legislation. There may be many nonprofit plans in existence that have not had contracts with the providers who will now benefit from this bill.

CHAIR HORSFORD:
Would you support the provision if that clarification were made?

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MR. WELCH:
We would not.

Another issue we have with this bill involves the clarification of the DIR fee schedule. As in any other actuarial analysis, the figures are based upon the full risk that is being considered, not just the highest risk. In this fee schedule, we will have the highest acuity. We will have patients being paid based on a fee schedule that was based upon a full risk analysis. Our hospitals will lose money on every one of those cases.

GEORGE ROSS (Sunrise Hospital and Medical Center):
Today I am representing Sunrise Hospital and Medical Center.

The basis being used for this legislation is well below typical network contracts for similar services. That reduction in revenue must be made up somewhere.

The true result of this bill would be that the hospitals would receive significantly lower amounts of revenue. If it were to pass, as formulated, the Legislature would be taking the position that we, as a State, should shift the risk and the costs of health care from large, private sector payers who find the health plans which will benefit from this bill, to private sector health care providers.

I would like to echo the comments of Mr. Wadhams regarding Medicaid cuts. This will have the same impact. The revenue must be made up somewhere. We are shifting the costs from large payers onto the hospitals who must increase revenue. Unfortunately, everyone else's insurance rates will go up.

CHAIR HORSFORD:
I want to offer a different perspective. You indicate that this will shift the costs, but those costs get paid by individual consumers. I have personally dealt with the issue of receiving bills from out-of-network providers working at in-network hospitals. I paid those bills, not the health plans. This is a two-sided issue. I am worried about the consumers.

KATHLEEN CONABOY (Nevada Orthopedic Society):
Today I am representing the Nevada Orthopedic Society.

We appreciate Senator Copening's efforts with this amendment. We remain in opposition to the bill as it is amended, however. We have two main reasons for this.

The first is that there is no definition of the problem this bill is seeking to solve. We have no idea of the scope of the problem. Since last Session, we have been recommending that an analysis be done of the ways in which out-of-network claims are resolved. Before we do something that represents a sea change in policy, we should define the problem clearly.

Our other continuing objection is that the State is now trying to set private party contract rates by statute. We strenuously object to that. We have consistently objected to the use of any metrics to set rates between private parties.

Also, our physicians feel that the State would be precipitously eliminating access to emergency services as doctors will be reluctant to sign on to take calls for emergency situations.

CHAIR HORSFORD:

The emergency room doctors are exempt in this bill.

MS. CONABOY:

I have seen that language. I understand that "emergency room physician" is a category of a certified physician, but emergency room physicians use doctors such as orthopedic surgeons and anesthesiologists who stabilize patients in trauma situations. As I read the bill, orthopedic surgeons are not exempted from the provisions.

SENATOR KIECKHEFER:

I want to disclose, for the record, that I am an employee of McDonald Carrano Wilson LLP. Ms. Conaboy is also an employee of a separate legal entity under the same banner.

DANNY THOMPSON (Nevada State AFL-CIO):

Today I am representing the Nevada State AFL-CIO.

Most of the people in the Health Care Coalition are affiliates of mine. We strongly support this amendment. People find themselves in these types of

situations through no fault of their own. There should be some reasonable accommodation and I believe that the use of the DIR medical fee schedule is appropriate.

Ms. BOND:

I would like to make one observation which has not yet been discussed. One of the provisions in this bill that we have supported the most dictates that the doctors be paid a set amount that is profitable to them. At the moment, there are many plans which do not pay that satisfactory amount, and many patients become trapped.

When we first advocated this bill, there were many physicians who were in support because, in the current climate, they often do not get paid at all. They receive the copay and then must chase the patients for bill collection. They must also chase health plan providers for appeals. This bill provides a set level playing field which assures each party is assured of payment at a profitable rate.

CHAIR HORSFORD:

Given the exhaustive nature of the policy committee hearings and the extensive work done by Senator Copeny on this amendment, I feel that this bill needs to move forward. There will be additional opportunities for discussion if this bill moves from the Senate to the Assembly, and other technical issues could be addressed at that time.

The consumers' interests must be taken into account. The medical bankruptcies are a problem. People are being threatened by collection agencies. It is important for the policy of this bill to be fully considered by this legislature.

I would like a representative of the Division of Insurance to come forward and discuss the Division's position on their previously issued fiscal note.

MR. BARRATT:

The Division of Insurance posted a fiscal note of approximately \$500,000 over the biennium for this bill. However, with the changes as proposed in Amendment 7187, we will be removing our fiscal note in its entirety.

SENATOR LESLIE MOVED TO AMEND AND DO PASS S.B. 115 WITH AMENDMENT 7187.

SENATOR PARKS SECONDED THE MOTION.

SENATOR DENIS:

I will vote for the bill because I believe that it addresses an important issue, but I still have some reservations. I will reserve my right to change my vote on the floor.

SENATOR KIECKHEFER:

I am against this bill for a variety of reasons. It attempts to address a problem that ultimately exists between an insurer and its members. These are insurance plans which do not cover people in case of an emergency. They are offering a product which is not meeting the needs of its clients. They are now coming to the Legislature to ask us to force providers of medical care to accept rates for which they do not contract. This is all because the insurers do not want to pay.

Our State self-insured plan covers members in case of an emergency out-of-network. If you are on the Public Employee Benefits Program, you are covered if you get taken by an ambulance to an out-of-network hospital. The insurers are coming to the Legislature and demanding that payment rates be set because they do not want to provide that coverage in their plans. This offends me and I do not agree with it.

I believe this will also reduce the incentive for plans to expand their networks and contract with other hospitals. If they know that they will have a fixed cost associated with out-of-network hospitals in case of an emergency, they will not enter into a new contract to provide that certainty.

It is clear that this bill will reduce payments to hospitals. We are already worried about how much we are funding hospitals through public payments. Medicaid does not cover the cost of service. Medicare does not cover the cost of service. Now we are saying that the private sector does not have to cover the cost of service either. The end result will be reduced access.

To have the State intervene in what should ultimately be private contract negotiations flies in the face of the free market.

For these reasons, I will be voting no on this bill.

SENATOR LESLIE:

We have been trying to fix this problem for eight years. We must move forward. I am sympathetic to the situation of the hospitals, but I am also sympathetic to the plight of the consumers who are left with bills that they cannot pay. We have provided every opportunity for the parties to come together and resolve the problem and they have not been able to do so. This is the best version of this legislation that I have seen in eight years. I will be supporting this legislation.

CHAIR HORSFORD:

It is interesting when we draw lines in the sand about policy, yet we have made policy decisions over the last four months which could have addressed more of the issues for the hospitals. The fact that we are cutting their Medicaid reimbursement rates by 5 percent could have been addressed in the budget. We have decided not to fund those things, but now we are supposed to draw the line at this policy decision. I do not understand the balance or consistency in this approach.

I have tried to approach this issue from the standpoint of a consumer. When I was on the Senate Committee on Health and Human Services, it was Senator Maurice Washington, Senator Valerie Wiener and I who served on a subcommittee spending months trying to accomplish what Senator Copeney has achieved today.

This issue is about finding a balance. The stakeholders are the insurance companies, the medical providers and the hospitals. This is simply an issue between the insurance companies and the consumers, because the health care system consists of more than one component. I view this as the first real effort to find a balance among these three entities.

The bill is not perfect. People may have objections. To say, however, that every attempt has not been made to balance those three sectors in this legislation is not reflective of reality.

In considering [Exhibit H](#) and the amendments which have been offered by each of the stakeholder groups, and then comparing that to the language which is now included in this amendment, it is apparent that every attempt has been made to include provisions in a balanced and fair way.

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The policy must be decided in the interests of the affected consumer.

I will support this bill.

THE MOTION CARRIED. (SENATOR RHOADS, CEGAVSKE AND
KIECKHEFER VOTED NO.)

CHAIR HORSFORD:

This meeting is in recess until the Call of the Chair at 11:29 a.m.

This meeting was reconvened on the Floor of the Senate at 11:03 p.m. to move
to adjournment at 11:05 p.m.

RESPECTFULLY SUBMITTED:



Wade Beavers,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Mark Krmpotic / LCB Fiscal	NSHE Formula Study Outline
	D	Trevor Hayes / Livery Operators Association of Las Vegas	Proposed Amendment to <u>S.B. 320</u>
	E	Charles Duarte / DHCFP	Proposed Amendment to <u>S.B. 278</u>
	F	Senator Allison Copening	<u>S.B. 115</u> Outline
	G	Senator Allison Copening	Proposed Amendment to <u>S.B. 115</u>
	H	Senator Allison Copening	Summary of Proposed Amendments to <u>S.B. 115</u>